

January 16, 2019

**Via Electronic Mail Only**

Mike Katz-Lacabe  
[REDACTED]

San Leandro, CA 94577  
[REDACTED]

**Re: Request for Records Related to Officer Becerra**

Dear Mr. Katz-Lacabe:

This office serves as the City Attorney for the City of San Leandro (the "City"). The City received your Public Record Request on January 8, 2019 via e-mail. The records that you requested are as follows:

1. "... copies of ... disclosable records in the unlawful sexual intercourse with a minor committed by Marco Becerra."
2. "records fitting . . . general descriptions" related to:
  - a. "statements made pertaining to . . . unlawful sexual intercourse with a minor"
  - b. statements of other officers "pertaining to Becerra's unlawful sexual intercourse with a minor"
  - c. copies of other complaints made against Officer Becerra
  - d. all non-exempt portions of Officer Becerra's personnel file.

It is the City's understanding that you seek records related to the personnel file of Officer Becerra.

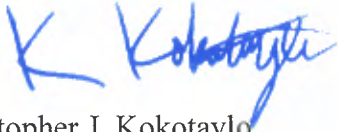
The City has determined that the information that you seek is exempt from disclosure pursuant to Government Code Section 6254(k). Specifically, the records that you seek contain peace officer personnel records, "the disclosure of which is exempted or prohibited pursuant to federal or state law... relating to privilege." (*See* Gov. Code § 6254(k); Pen. Code § 832.7; Evid. Code § 1043, *et seq.*)

As you are aware, SB 1421 amended Penal Code Section 832.7 to require the disclosure of records related to certain specified incidents including sustained findings of misconduct. Additionally, SB 1421 added Penal Code Section 832.7(b)(1)(B)(i) to require disclosure of records "relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public." Penal Code Section 832.7(b)(1)(B)(ii) limits the definition of sexual assault to "the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault."

To the extent you seek records related to the personnel file of Officer Becerra, those records are exempt from disclosure. The City has no responsive records pursuant to SB 1421.

The City has fully complied with the CPRA in responding to your request. This request is now completed and closed.

Very truly yours,



Kristopher J. Kokotaylo  
Assistant City Attorney

KJK:kjk

c: Jeff Tudor, Chief of Police (via e-mail)  
Luis Torres, Captain (via e-mail)  
Jamie Knox, Captain (via e-mail)  
Joe Molettieri, Lieutenant (via e-mail)  
Denise Lenz, Support Services Manager (via e-mail)  
Leticia Miguel, City Clerk (via e-mail)  
Caroline Hernandez, Deputy City Clerk (via e-mail)  
Richard D. Pio Roda, City Attorney (via e-mail)

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